



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

September 26, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Fremont County Commissioners
c/o Lanny Applegate, Chairman
450 North Second St.
Lander, WY 82520

Re: Notice of Safe Drinking Water Act
Enforcement Action against
David and Chris McIlrath, Owners
Sleeping Bear Ranch RV Resort
PWS ID#5601408

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Mr. David McIlrath and Mrs. Chris McIlrath, owners of the Sleeping Bear Ranch RV Resort located in Lander, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The system is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.23(d), 141.21(a), 141.73(d), 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, failure to monitor for total coliform bacteria, exceedance of allowable turbidity levels, failure to provide public notice of above mentioned violations, and failure to notify EPA of above mentioned violations.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kimberly Pardue Welch at (303) 312-6983.

Sincerely,

Lisa Kahn for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure
Administrative Order



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September 26, 2006

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Mr. David McIlrath and Mrs. Chris McIlrath, Owners
Sleeping Bear Ranch RV Resort
715 Main Street
Lander, WY 82520

Re: Administrative Order
Docket No. **SDWA-08-2006-0065**

PWS ID #WY5601408

Dear Mr. and Mrs. McIlrath:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that as owners of the Sleeping Bear Ranch RV Resort Water System (the System), you are suppliers of water as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.23(d), 141.21(a), 141.73(d), 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, failure to monitor for total coliform bacteria, exceedance of allowable turbidity levels, failure to provide public notice of above mentioned violations, and failure to notify EPA of above mentioned violations.

EPA acknowledges that the System has been in compliance with the total coliform monitoring requirements from June 2004 to the present and with the turbidity requirements of the surface water treatment rule since November 2004.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to

\$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Among other things, the Order requires you to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of public notice, please do not hesitate to contact Kimberly Pardue Welch of EPA, whose telephone number is provided below.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney or have legal questions, please call Thomas E. Sitz at the above 800 number, extension 6918, or at (303) 312- 6918.

We urge your prompt attention to this matter.

Sincerely,

Lisa Kahn for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Administrative Order
Public Notice template
SBREFA fact sheet

cc: Wyoming DEQ (via email)
Wyoming DOH (via email)
Mr. Del Dale, Operator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF)

)

David McIlrath and Chris McIlrath)

(Sleeping Bear Ranch RV Resort))

(Lander, WY))

)

Respondents)

)

ADMINISTRATIVE ORDER

Proceedings under Section 1414(g))

of the Safe Drinking Water Act,)

42 U.S.C. § 300g-3(g))

Docket No. **SDWA-08-2006-0065**

_____)

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Mr. David McIlrath and Mrs. Chris McIlrath (Respondents) are individuals and therefore "persons" within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, the Sleeping Bear Ranch RV Resort Water System ("the System"), located in Fremont County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f (4), and a "transient, non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate the System and therefore are "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. §141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. The System is supplied solely by a surface water source. The System has been in operation since before 1996, serves approximately 130 persons per day during the operating period through 83 service connections and is open May 1 through October 31.

FINDINGS OF VIOLATION

I

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62(b).
2. Though Respondents monitored for nitrate in May 2006, they failed to monitor in 2003 and 2005, in violation of 40 C.F.R. § 141.23(d).

II

1. 40 C.F.R. § 141.21(a)(3)(iii) requires a non-community public water system using surface water to monitor the water at least once per month that the system serves water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63(a)(2).
2. 40 C.F.R. § 141.63(a) (2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondents for the System during July 2006 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. §141.63(a)(2).

III

1. 40 C.F.R. § 141.21(a)(3)(iii) requires a non-community public water system using surface water to monitor the water at least once per month that the system serves

water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63(a)(2).

2. Respondents submitted a water sample to the laboratory for total coliform bacteria during the month of May 2004; however it was returned an “unknown” analysis.
3. Upon receiving an “unknown” analysis, Respondents are required to take a replacement sample to achieve compliance with 40 C.F.R. § 141.21(a).
4. Respondents failed to take a replacement sample, in violation of 40 C.F.R. § 141.21(a).

IV

1. Because the System uses an alternative filtration technology (media followed by bag / cartridge), the System is subject to a filtered water turbidity maximum of 1 Nephelometric Turbidity Unit (NTU) in at least 95% of the measurements taken in any month as stated in 40 C.F.R. § 141.73(d).
2. During October 2004, the System failed to maintain water turbidity levels of 1 NTU or less in at least 95% of the measurements taken that month, in violation of 40 C.F.R. § 141.73(d).

V

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of the national primary drinking water regulations (NPDWR), including violations of the maximum contaminant level (MCL), maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. § Part 141.

2. Respondents have not provided public notice of the violations outlined in Sections I through IV, in violation of 40 C.F.R. § 141.201.

VI

- a. 40 C.F.R. 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
- b. Respondents failed to report to EPA the total coliform MCL violation detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(1).

VII

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21(a) to report the violation to EPA within ten days after the system discovers the violation.
2. Respondents failed to report to EPA the noncompliance detailed in Section III above, in violation of 40 C.F.R. § 141.21(g)(2).

VIII

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondents failed to report to EPA the noncompliance detailed in Sections I and IV above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT
IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b).

Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondents shall comply with the total coliform MCL as stated in 40 C.F.R. § 141.63(a)(2) and with requirements to collect total coliform samples at sites which are representative of water throughout the distribution system as stated in 40 C.F.R. § 141.21(a)(1).
3. Upon the effective date of this Order, Respondents shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63(a)(2).

Respondents shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.21(g)(2).
4. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.73(d) and 40 C.F.R. § 141.551 by ensuring that the turbidity level of representative samples of the System's filtered water must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month and at no time exceed 5 NTU.

5. Within 30 days from the effective date of this Order, Respondents must provide public notice of the violation(s) specified under the Findings of Violation items I through IV in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). This notice shall be given by (1) posting the notice in conspicuous location throughout the distribution system frequented by persons served by the System OR (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the System if they would not normally be reached by the notice required above, such as publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists.
6. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.

7. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
8. Upon the effective date of this Order, except where noted in Section 6 and 7 above, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
9. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-DW)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondents to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).

3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondents to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 26TH day of September, 2006.

SIGNED dij

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Lisa Kahn for/

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON SEPTEMBER 26, 2006.



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